

**Supporting Statement for
Delegation of Authority to States
(OMB Control Number: 1010-0088)
(Expiration Date: June 30, 2000)**

A. Justification

1. What circumstances make this collection of information necessary?

On August 13, 1996, Congress enacted the Federal Oil and Gas Royalty Simplification and Fairness Act (RSFA) of 1996, Pub. L. 104-185, as corrected by Pub. L. 104-200. RSFA amends the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1701 et seq. Prior to enactment of RSFA, section 205 of FOGRMA, 30 U.S.C. 1735, provided for the delegation of only audits, inspections, and investigations to the States. RSFA amends section 205 of FOGRMA to provide that other Federal royalty management functions may also be delegated to requesting States. In accordance with RSFA, and to properly administer the delegation of these functions to the requesting States, the Minerals Management Service's (MMS) Royalty Management Program (RMP) published a final rule in the Federal Register on August 12, 1997 (62 FR 43085). (See Attachment 1 for referenced citations.) The final rule authorized the delegation of the following Federal royalty management functions to States:

- a. Conducting audits, and investigations;
- b. Receiving and processing production and royalty reports;
- c. Correcting erroneous report data;
- d. Performing automated verification; and
- e. Issuing demands, subpoenas (except for solid mineral and geothermal leases), orders to perform restructured accounting, and related tolling agreements and notices to lessees or their designees.

2. How, by whom, and for what purpose will the information be used?

In accordance with RSFA, and to properly administer the delegation of the functions to the requesting States, we must collect pertinent information from industry and States to ensure that this program continues to operate efficiently and effectively. Therefore, a State will have to submit an application requesting to perform these delegable functions.

Royalty and production reporters send all financial and production reports and royalty payments to RMP. We verify the accuracy of the reports and payments prior to disbursing the funds to States, Indians, the U.S. Treasury, and other Federal agencies. If States choose to participate in the delegable function of receiving and processing financial and production reports, payors will have to send these reports to each participating State on the Federal leases within that State and to RMP for the remaining Federal leases. Although payments will still be made to RMP, individual checks or additional information on wire transfers will have to be submitted to identify checks associated with reports sent to a State versus reports sent to RMP.

Currently, error correction, automated verification, issuing demand letters, and billing actions are handled by RMP. If States choose to participate in the delegable functions, reporters may have to work with and provide data to various contacts in the participating State(s) and in RMP.

Also, there are certain measurements and standards that RMP is held accountable to, and we must file reports to outside entities. States choosing to participate in any delegable function will be held to these same measurements and standards and, therefore, will have to provide data to document the work that they are doing.

Since this information collection was initially approved, no State has requested to perform any royalty management delegable function other than to conduct audits. We expect that States may submit applications requesting delegations of authority during the next 3 years for other delegable functions because our new reengineered, financial system will be implemented on October 1, 2001. This information collection is necessary for MMS to comply with RSFA and the regulations at 30 CFR Part 227.

3. Does the collection of information involve the use of information technology? If so, does it reduce the burden and to what extent?

States must have the capability of accepting electronic forms of reporting in order to receive the delegable function of receiving and processing production and royalty reports. States must also have the capability to electronically transmit data to and receive data from RMP. Currently, electronic methods of reporting are extensively used and will continue to be used by industry when filing production and royalty reports. MMS

anticipates that half of industry's coordination effort among the participating States and with MMS will be electronic.

4. Describe efforts to identify duplication. Can similar information be used or modified for this collection?

The information collected (royalty reports, production reports, related documents, measurements, and statistics) is unique. There are no other Federal agencies collecting this information. Any duplication of information between State reports and Federal reports will be reviewed. Duplication will be eliminated if at all possible.

5. What is the agency doing to minimize the burden on small businesses or other small entities?

To minimize the burden on small businesses or other small entities, we have several 800 telephone numbers available for State and industry representatives to use. We also provide training, handbooks and manuals, and allow the option of electronic reporting.

6. What are the consequences to Federal programs or policy activities if the collection is not conducted or is conducted less frequently? Are there technical or legal obstacles to reducing the burden?

The information requested is vital to receiving the proper royalties due the Federal Government which in turn are shared with States. Without this information, States as well as the Federal Government could lose money. The information collected from States is required to ensure that the law is upheld to maintain the same level of mineral revenue collection with no additional costs to the taxpayer. There are no technical or legal obstacles to reducing the burden.

7. Are there any special circumstances that require exceptions to 5 CFR 1320.5(d)(2)?

There are special circumstances that require exceptions to 5 CFR 1320.5(d)(2):

- a. Reports are required monthly from reporters,
- b. Records must be maintained for a 7 year period, and
- c. Proprietary data is required from reporters.

RMP and any State choosing to participate in a delegable function will keep confidential, under applicable laws and regulation, any and all data submitted that is privileged, confidential, or otherwise exempt. All requests for information about determinations made under this part are to be submitted under the Freedom of Information Act regulation of the Department of the Interior, 43 CFR Part 2.

8. What efforts did the agency make to consult with the public and a representative sample of respondents?

We published a Federal Register Notice on December 3, 1999 (64 FR 67930) soliciting comments on this information collection (Attachment 2). No comments were received. We also published a final rule in the Federal Register on August 12, 1997 (62 FR 43076) authorizing the delegation of several Federal royalty management functions to States. Comments were received and are addressed in the preamble to the final rule.

9. Will payment or gifts be provided to respondents?

There will be reimbursement of some costs incurred by States as they perform the delegable functions.

10. What assurance of confidentiality is provided to respondents?

Commercial or financial information submitted relative to minerals removed from Federal leases may be proprietary. Trade secrets and proprietary information are protected in accordance with standards established by FOGRMA of 1982 (30 U.S.C. 1733), the Freedom of Information Act (5 U.S.C. 552(b)(4)), and Department regulations (43 CFR 2). The Indian Minerals Development Act of 1982 (25 U.S.C. 2103) provides that all information related to any Indian minerals agreement covered by the Act in the possession of the Department shall be held as privileged proprietary information. Storage of such information and access to it is controlled by strict security measures.

11. Does the information collected include any questions of a sensitive nature?

None of the information requested is considered sensitive.

12. What is the estimated reporting and recordkeeping "hour" burden of the collection of information?

Burden on States:

A State requesting a delegation of any of the five functions must prepare and submit information to MMS including an application to perform the delegable functions, evidence and testimony for the hearing process, expense vouchers for cost reimbursement, and annual work plans for MMS review. A delegated State must also maintain records in accordance with applicable Federal recordkeeping requirements. This information is necessary for tracking purposes, for an audit trail, and to document that the State can perform the delegated royalty management functions effectively and efficiently. MMS will use this information to evaluate applications for delegation and to monitor and review a State's performance of its delegated functions.

Currently, 38 States receiving royalty from MMS could request a delegation. MMS assumes that four of the larger producing States may request a delegation of expanded functions. Approved delegations will last for 3 years. States may submit vouchers for cost reimbursement monthly or quarterly. States must submit delegable function work plans annually. MMS will specify the frequency of monitoring and reviewing a State's performance in the delegation agreement.

The work involved in each delegable function is described below:

- a. Application/hearing—apply for delegable function(s)—this will occur once to establish the delegation and could occur again when the delegation is up for renewal
- b. Vouchers—monthly, quarterly, semi-annual requests for reimbursement of costs;
- c. Work plans—yearly plan of work covering each function to be performed by the State;
- d. Recordkeeping—maintain all records for 7 years (copy of reports, work performed, statistical data, measurement data).

We estimate that a State's annual burden for electing to perform one delegable function is 400 hours as follows:

- a. Application and hearing preparation—40 hours;
- b. Voucher preparation—120 hours;

c. Work plan preparation—40 hours;

d. Recordkeeping—200 hours.

If a State were to perform all 5 delegable functions, the annual burden for that State would be 2,000 hours (400 hours x 5 functions). If 4 States were to perform all 5 delegable functions, the annual burden for those 4 States would be 8,000 hours (2,000 hours x 4 States). We assume that the States would submit vouchers each quarter and their individual work plan on an annual basis (4 States x 5 submissions = 20 responses/year).

If 6 other States continued to conduct only the delegated audit function, this would result in an additional annual burden of 2,400 hours (400 hours x 6 States). We assume that the States would submit vouchers each quarter and their individual work plan on an annual basis (6 States x 5 submissions = 30 responses/year).

4 States doing 5 delegable functions = 8,000 hours

6 States doing delegated audits = 2,400 hours

Total annual burden = 10,400 hours

Using a cost of \$50 an hour, the annual cost burden estimate to States is \$520,000. Some of these costs will be reimbursed by the Federal Government out of current appropriations. However, States could incur additional start-up costs, such as purchasing equipment necessary to perform a delegated function, that may not be reimbursable.

Burden on Industry:

MMS estimates that the total annual burden for industry will be 200,000 hours for approximately 4,000 payors and reporters providing royalty and production reports to MMS. If 4 States perform delegable functions and each State affects 1,000 payors and reporters, MMS estimates that each payor or reporter would spend 50 burden hours coordinating their interactions and communications among the requesting States and with MMS. For example, if a payor sends reports to the State but sends payments to MMS, the payor must coordinate not only with MMS, as is currently done, but also with the respective State.

1,000 reporters/payors x 50 hours x 4 States = 200,000 hours

Using a cost of \$50 an hour, the annual cost burden estimate to industry is \$10 million.

The total annual burden hour estimate for this collection is 210,400 hours. Please refer to the following chart:

Reporting/Recordkeeping Requirements	Frequency	Number of Respondents	Burden Per Reqmnt	Annual Burden Hours
Application, vouchers, work plans, and recordkeeping	Monthly Quarterly Annually	4 States	2,000	8,000
Delegated audit function	Monthly Quarterly Annually	6 States	400	2,400
Coordination of information reported among/between MMS and a given State or States	Monthly Quarterly Annually	4,000 payors and reporters	50	200,000
Total		4,010		210,400

13. What is the estimated reporting and recordkeeping "non-hour cost" burden of the collection of information, excluding any costs identified in Items 12 and 14?

The start-up costs to each State (if they do not already have this type of equipment) could be:

<u>Equipment</u>	<u>Cost</u>
Electronic capability	\$ 10,000
Imaging	\$ 50,000

The total start-up costs for 4 States could be \$240,000 (\$60,000 x 4 States). Annualized over 3 years, the cost is \$80,000.

a. Electronic capability—a mainframe communication package capable of handling electronic exchange of data and the various forms of electronic commerce such as Electronic Data Interchange, magnetic or cartridge tapes, diskettes, Comma Separated Values, e-mail, etc.

b. Imaging—equipment including software and a file server.

Note: The preparation of royalty/production data for input into the RMP data set readable by RMP computers could be done through data entry or optical scanning. It is assumed that all States have access to a mainframe computer. It is also assumed that all States will use the software generated by RMP. If this is not the case, software development could run into tens of millions of dollars for the State system.

14. What is the estimated annualized cost to the Federal Government?

Based on our current experience with administering the delegated audit function conducted by 10 States, MMS's annual burden estimate is 900 hours per State for administering the delegated audit function and an additional 300 hours per State for issuing related demand letters. Since MMS no longer issues demand letters, the 300 burden hour estimate will decrease to an estimate of 50 annual burden hours for monitoring purposes. MMS's total burden for the six States continuing to perform delegated audits plus assuming the responsibility of issuing letters would be 5,700 annual burden hours.

[900 hours x 1 function (delegated audits) x 6 States] +
[50 hours x 1 function (issue demand letters) x 6 States] = 5,700
annual burden hours

The annual burden hours to the Federal Government for 4 States assuming all 5 functions is 14,600 hours.

[900 annual burden hours per function x 4 functions (except issue demands) x 4 States] + [50 annual burden hours x 1 function (demand letter monitoring) x 4 States] = 14,600 annual burden hours

We estimate the annual burden to the Federal Government is 20,300 hours. Using a cost of \$50 an hour, the annual cost burden estimate is \$1,015,000.

15. Are there any program changes or adjustments reported in Items 13 or 14 of Form OMB 83-I?

In Item 13, we re-estimated the number of respondents and total annual responses. This adjustment is due to the number of States and royalty payors who may perform delegable functions. However, the burden hours in OMB's Inventory remain the same at 210,400 hours.

In Item 14, the cost burden was initially calculated and shown for only 1 State—\$60,000. We have corrected Item 14 with an adjustment of \$20,000 to now show annualized cost for 4 States at \$80,000.

16. Are there plans for tabulation and publication of the results of this information collection?

There are no plans for tabulation and publication of this information.

17. Is the agency seeking approval to not display the expiration date?

No, we are not seeking an exemption to displaying the expiration date of OMB's approval.

18. Are there exceptions to the certification statement in Item 19 of Form OMB 83-I?

Collection of this information complies with Item 19, "Certification for Paperwork Reduction Act Submissions," on Form OMB 83-I.

B. Collections of Information Employing Statistical Methods

This section is not applicable. We will not employ statistical methods in this information collection.